

W. 16-a.



Lane County

LAND MANAGEMENT DIVISION
125 EAST 8TH AVENUE
EUGENE, OREGON 97401
PHONE: 541-682-3823
FAX: 541-682-3947

AGENDA COVER MEMO

MEMO DATE: May 9, 2006

AGENDA DATE: May 17, 2006

TO: BOARD OF COUNTY COMMISSIONERS

FROM: BILL VANVACTOR, COUNTY ADMINISTRATOR
KENT HOWE, PLANNING DIRECTOR

RE: In the Matter of Considering a Ballot Measure 37 Claim and Deciding Whether to Modify, Remove or Not Apply Restrictive Land Use Regulations in Lieu of Providing Just Compensation (PA05-5880, Robert and Helen Sues)

I. MOTION

Move to approve the claim and adopt the order attached to this memo.

II. ISSUE OR PROBLEM

Shall the Board of County Commissioners compensate an applicant under Ballot Measure 37 and LC 2.700 through 2.770 for the reduction in fair market value of the affected property interest resulting from enactment or enforcement of restrictive land use regulations or modify, remove, or discontinue application of those land use regulations to the subject property to allow Robert and Helen Sues to develop the property as could have been allowed at the time they acquired the property?

III. DISCUSSION

A. Background

Applicant: Robert and Helen Sues

Current Owner: Robert and Helen Sues

Agent: Piculell Group, Inc. 4820 SW Scholls Ferry Rd, Portland, OR 97225

Submittal date: June 27, 2005

180 day deadline: December 27, 2005. On January 20, 2006, the applicant waived the 180 day deadline. On March 27, the applicant waived the deadline to May 3, 2006. On April 10, the deadline was waived to May 17, 2006.

Legal Description of Property: 18-05-01 #300

Acreage: 125 acres

Current Zoning: E-40 (Exclusive Farm Use).

Date Property Acquired: January 30, 1963 (Warranty Deed 50811).

Land Use Regulations in Effect at Date of Acquisition: None.

County land use regulation which restricts the use and reduces the fair market value of claimant's property: LC 16.212 Exclusive Farm Use (E-40) Zone

Specific Relief Sought: On June 27, 2005, the applicant submitted a Measure 37 claim that requested relief to develop 125 single-family residential lots of approximately 1 acre each. In the E-40 zone, the minimum lot size is 40 acres and a dwelling requires a special use permit. In lieu of waiving the restrictive land use regulations, the applicant requests compensation in the amount of \$1,424,000.

Lane Code Submittal Requirements

The applicant has paid the processing fee and submitted evidence in support of his claim. That evidence includes an appraisal, title report and deeds.

The entire submittal is contained in two notebooks labeled "Suess Measure 37 Claim: Book #1" and "Suess Measure 37 Claim: Book #2", available in the County Commissioners Office. The portions of the submittal attached to this memo are identified in the "Attachments" section.

B. Analysis

To have a valid claim against Lane County under Measure 37 and LC 2.700 through 2.770, the applicant must prove:

1. Lane County has enacted or enforced a restrictive land use regulation since the owner acquired the property, and
2. The restrictive land use regulation has the effect of reducing the fair market value of the property, and
3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

Restrictive Regulations

The property contains approximately 125 acres and one dwelling. The current owners acquired an interest in the property on January 30, 1963, (Warranty Deed 80841). On that date, the property was unzoned. Currently, the property is zoned E40 (Exclusive Farm Use). This zone requires 40 acres for new parcels and a special use permit for a new dwelling.

Reduction in Fair Market Value

On April 11, 2006, the applicant submitted an appraisal. Based on this appraisal, the applicant claims the reduction in value is \$1,424,000. The Board will need to determine if this evidence demonstrates a reduction in fair market value resulting from enforcement of a restrictive land use regulation.

Exempt Regulations

The E-40 minimum parcel size and dwelling restrictions do not appear to be exempt regulations described in Measure 37 or LC 2.710.

C. Conclusion/County Administrator Recommendation

The applicant is alleging a reduction in value of \$1,424,000 based on the submitted appraisal. If the Board determines this evidence demonstrates a reduction in fair market value resulting from enforcement of a restrictive a land use regulation, then it appears this is a valid claim.

IV. ALTERNATIVES/OPTIONS

The Board has these options:

1. Determine the application appears valid and adopt the order attached to this memo.
2. Conclude the application is not a valid claim and direct the issuance of a final written decision by the County Administrator denying the Claim.

V. RECOMMENDATION

If the Board finds the evidence demonstrates a reduction in fair market value resulting from enforcement of a restrictive land use regulation, the County Administrator recommends alternative #1.

VI. ATTACHMENTS

Order to approve the claim submitted by Robert and Helen Suess.

- Written claim dated June 27, 2005.
- Letter from Michael Gunn dated April 11, 2006.
- Summary of Appraisal dated February 28, 2006.
- Title Report dated March 31, 2006.
- Warranty Deed 80841 dated January 30, 1963.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY,
OREGON**

ORDER No.) IN THE MATTER OF CONSIDERING A BALLOT
) MEASURE 37 CLAIM AND DECIDING
) WHETHER TO MODIFY, REMOVE OR NOT
) APPLY RESTRICTIVE LAND USE
) REGULATIONS IN LIEU OF PROVIDING JUST
) COMPENSATION (Robert and Helen Suess/
) PA05-5880)

WHEREAS, the voters of the State of Oregon passed Ballot Measure 37 on November 2, 2004, which added provisions to Oregon Revised Statutes (ORS) Chapter 197 to require, under certain circumstances, payment to landowners if a government land use regulation restricts the use of private real property and has the effect of reducing the property value; and

WHEREAS, the Board of County Commissioners of Lane County enacted Ordinance No. 18-04 on December 1, 2004, to establish a real property compensation claim application process in LC 2.700 through 2.770 for Ballot Measure 37 claims; and

WHEREAS, the County Administrator has reviewed an application for a Measure 37 claim submitted by William Potter on behalf of Robert and Helen Suess (PA05-5880), the owner of real property located along 28123 Benson Lane, and described in the records of the Lane County Assessor as map 18-05-01, tax lot 3100, consisting of approximately 125 acres in Lane County, Oregon; and

WHEREAS, the County Administrator has determined that the application appears to meet all of the criteria of LC 2.740(1)(a)-(d), appears to be eligible for just compensation and appears to require modification, removal or not applying the restrictive land use regulations in lieu of payment of just compensation and has referred the application to the Board for public hearing and confirmation that the application qualifies for further action under Measure 37 and LC 2.700 through 2.770; and

WHEREAS, the County Administrator has determined under LC 2.740(4) that modification, removal or not applying the restrictive land use regulation is necessary to avoid owner entitlement to just compensation under Ballot Measure 37 and made that recommendation to the Board; and

WHEREAS, the Board has reviewed the evidence and confirmed the application appears to qualify for compensation under Measure 37 but Lane County has not appropriated funds for compensation for Measure 37 claims and has no funds available for this purpose; and

WHEREAS, on May 17, 2006, the Board conducted a public hearing on the Measure 37 claim (PA05-5880) of Robert and Helen Suess and has now determined that the restrictive E40 (Exclusive Farm Use) zone dwelling and land division requirements of LC 16.212 were enforced and made applicable to prevent Robert and Helen Suess from developing the property as might have been allowed at the time it was acquired on January 30, 1963, and that the public benefit

from application of the current E40 dwelling and division land use regulations to the applicants' property is outweighed by the public burden of paying just compensation; and

WHEREAS, Robert and Helen Suess request either \$1,424,000 as compensation for the reduction in value of their property, or waiver of all land use regulations that would restrict the division of land into one-acre lots and placement of a dwelling on each lot, uses that could have otherwise been allowed at the time they acquired the property; and

WHEREAS, the Board finds that under LC 2.760(3) the public interest would be better served by modifying, removing or not applying the challenged land use regulations of the E40 zone to the subject property in the manner and for the reasons stated in the report and recommendation of the County Administrator incorporated here by this reference except as explicitly revised here to reflect Board deliberation and action to allow Robert and Helen Suess to make application for development of the subject property in a manner similar to what they could have been able to do under the regulations in effect when they acquired the property; and

WHEREAS, this matter having been fully considered by the Lane County Board of Commissioners.

NOW, THEREFORE IT IS HEREBY ORDERED that the applicant Robert and Helen Suess made a valid claim under Ballot Measure 37 by describing the use being sought, identifying the county land use regulations prohibiting that use, submitting evidence that those land use regulations have the effect of reducing the value of the property, showing evidence that they acquired the property before the restrictive county land use regulations were enacted or enforced and the Board hereby elects not to pay just compensation but in lieu of payment, the request of Robert and Helen Suess shall be granted and the restrictive provisions of LC 16.212 that limit the development of dwellings and the division of land in the E40 (Exclusive Farm Use) Zone shall not apply to Robert and Helen Suess, so they can make application for approval to develop the property located at 28123 Benson Road, and more specifically described in the records of the Lane County Assessor as map 18-05-01, tax lot 300, in a manner consistent with the land use regulations in effect when they acquired the property on January 30, 1963.

IT IS HEREBY FURTHER ORDERED that Robert and Helen Suess still will need to make application and receive approval of any division of the property or placement of a dwelling under the other land use regulations applicable to dividing the property or placing a dwelling that were not specifically identified or established by Robert and Helen Suess as restricting the division of the property or placement of a dwelling, and it would be premature to not apply those regulations given the available evidence. To the extent necessary to effectuate the Board action to not apply the dwelling or division restrictions of the applicable zone described above, the claimant shall submit appropriate applications for review and approval of land divisions and any new dwellings to show the specific development proposals and in the event additional county land use regulations result in a restriction of those uses that have the effect of reducing the fair market value of the property, the County Administrator shall have the authority to determine those restrictive county land use regulations that will not apply to that development proposal to preclude entitlement to just compensation under Measure 37. All other Lane Code land use and development regulations shall remain applicable to the subject property until such time as they are shown to be restrictive and that those restrictions reduce the fair market value of the subject property.

IT IS HEREBY FURTHER ORDERED that this action making certain Lane Code provisions inapplicable to use of the property by Robert and Helen Suess does not constitute a waiver or modification of state land use regulations and does not authorize immediate division of the subject property or immediate construction of a dwelling. The requirements of state law may contain specific standards regulating development of the subject property and the applicants should contact the Department of Administrative Services (DAS - State Services Division, Risk Management - Measure 37 Unit, 1225 Ferry Street SE, U160, Salem, OR 97301-4292; Telephone: (503) 373-7475; website address: <http://www.oregon.gov/DAS/Risk/M37.shtml>) and have the State of Oregon evaluate a Measure 37 claim and provide evidence of final state action before seeking county land use approval.

IT IS HEREBY FURTHER ORDERED that the other county land use regulations and rules that still apply to the property require that land use, sanitation and building permits be approved by Lane County before any development can proceed. Notice of this decision shall be recorded in the county deed records. This order shall be effective and in effect as described in LC 2.770 and Ballot Measure 37 to the extent permitted by law. This order does not resolve several questions about the effect and application of Measure 37, including the question of whether the right of applicants to divide or build dwellings can be transferred to another owner. If the ruling of the Marion County Circuit Court in *MacPherson v. Dept. of Administrative Services*, (Marion County Circ. Ct. Case No. 00C15769, October 14, 2005) or any other court decision involving Ballot Measure 37 becomes final and that decision or any subsequent court decision has application to Lane County in a manner that affects the authority of this Board to grant relief under Ballot Measure 37 and LC 2.700 through 2.770 then the validity and effectiveness of this Order shall be governed by LC 2.770 and the ruling of the court.

DATED this _____ day of _____, 2006.

Bill Dwyer, Chair
Lane County Board of County Commissioners

APPROVED AS TO FORM

Date 5-9-2006 Lane County


OFFICE OF LEGAL COUNSEL

Application for Claims Under LC 2.700 through 2.770

Due to Regulatory Reduction of Property Value Under Provisions Added to ORS Chapter 197 by BM37

Note: This completed form together with the referenced supporting documentation and application fee must be submitted to the Lane County Land Management Division, 125 East 8th Avenue, Eugene, Or., 97401 for all claims subject to the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), to be considered for compensation under LC 2.700 through 2.770. In all cases, the applicant has the burden of demonstrating, with competent evidence, that all applicable criteria are met and the applicant would be entitled to compensation if the land use regulation continues to apply. Use additional paper, if necessary.

1. Applicant/ Agent

<u>C. Robert and Helen S. Suess</u> Applicant Name (Please Print)	<u>P.O. Box 15157, Seattle, WA 98115</u> Mailing Address	<u>541-342-3060</u> Phone
<u>The Piculell Group, Inc.</u> Agent Name (Please Print)	<u>4820 S.W. Scholls Ferry Rd. Portland, OR 97225</u> Mailing Address	<u>541-342-8444</u> Phone

2. Property Owner

Please provide the Name, Mailing Address and telephone number of all property owners of record holding interest in the property that is the subject of this application. Include a complete listing of all lien holders, trustees, renters, lessees or anyone with an interest in the property and describe the ownership interest.

<u>C. Robert Suess</u> Property Owner Name (Please Print)	<u>P.O. Box 15157, Seattle, WA 98115</u> Mailing Address	<u>541-342-3060</u> Phone	<i>One Office</i>
<u>Helen S. Suess</u> Property Owner Name (Please Print)	<u>" "</u> Mailing Address	<u>" "</u> Phone	

3. Legal Description

Please provide an accurate legal description, tax account number(s), map, street address and location of all private real properties that are the subject of this application.

Assessor Map & Tax Lot 18-05-01-00 00300

Street Address approx. 28123 Benson Road Legal Description Attached X

4. Identification of Imposed Land Use Regulation

Please identify the Lane Code section or other land use regulation imposed on the private real property that is alleged to restrict the use of the subject property in a manner that reduces the fair market value. Include the date the regulation was first adopted, enforced or applied to the subject property and a written statement addressing all the criteria in LC 2.740(1).

Exclusive Farm Use Zone (E-RCP) - E-40

Lane Code 16.212 (6), (7), (9)(a) and (10)(a) through (i)

5. Title Report

Please attach a Preliminary Title Report showing title history and continuous ownership traced to the earliest family member ownership, the date of current owner(s) acquisition and all current interests of record for the subject property, issued within 30 days of the application submittal. Provide copies of relevant deeds.

Attached

6. Appraisal/Regulatory Effect

Please provide one original, signed appraisal prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon addressing the requirements of provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and indicating the amount of the alleged reduction in fair market value by showing the difference in the fair market value of the property before and after the application of the challenged regulations as of the date the owner makes written demand for compensation. Include all of the supporting methodology, assumptions and calculations affecting the appraisal.

Fair Market Value of land under challenged regulation = \$333,183.00

Fair Market Value of land after relief via Measure 37 = \$3,733,213.00

7. Leases, Covenants, Conditions and Restrictions

Please provide copies of any leases or covenants, conditions and restrictions applicable to the subject property.

None

8. Identification of Relief Sought

Please specifically indicate what relief is being sought, either a monetary value of the claim describing the reduction in fair market value of the property or the specific use authorization sought in any waiver of the land use regulation.

Relief requested is for approval to develop 125 single-family residential lots of

1 ac. in size, or, compensate Owner \$3,400,030.00 for loss of value by imposition of Lane Code restrictions in 16,212.

I (we) have completed all of the attached application requirements and certify that all statements are true and accurate to the best of my (our) knowledge and belief. I am (We are) authorized to submit this application on behalf of all those with an interest in the property and all the owner(s) agree to this claim as evidenced by the signature of those owner(s) below. Include additional signatures, as necessary.

Entry by County or its designee upon the subject property is authorized by the owner(s) and the owner(s) consent to the application for claims under provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004).

Owner(s) Signature

June 10th, 2005
Date

Applicant/Agent Signature

June 10, 2005
Date

The following contacts are provided to assist you in finding the necessary information for this application.
For zoning and land use information, please contact the Land Management Division at 682-3577.
This phone contact is a message line. Please leave a message and a Planner will return your call.
For deeds and records information, please contact Lane County Deeds and Records at 682-3654.

APR 12 REC'D

GUNN & CAIN LLP
Attorneys at Law

♦ 201-B North Meridian ♦ P.O. Box 1046 ♦ Newberg, Oregon 97132 ♦
Telephone (503) 538-8318 ♦ Facsimile (503) 537-0591

Michael G. Gunn, P.C.
Jessica S. Cain P.C.

Sally D. Robinson
Charles E. Harrell

April 11, 2006

Mr. Steve Hopkins
Lane County Land Mgt. Division
125 E. 8th Ave
Eugene, OR 97401

SENT VIA FEDERAL EXPRESS

Re: Sues M37 Claim #M37PA 05-5880 / My client: The Piculell Group Inc.
Tax Account #00300, Assessor's Map #18 05 01 00, approximately 126 acres

Dear Mr. Hopkins:

As you are aware from prior communication, this office represents The Piculell Group Inc. associated with the above-titled matter. Enclosed herein are the following documents associated with the matter:

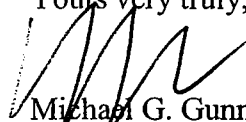
1. Authorization to File Claim and Communicate Directly With Lane County signed by C. Robert Sues and Helen S. Sues (note, this document authorizes me to amend, pend, etc. the said claim)
2. Amendment to M37 Claim (this Amendment amends certain portions of the previously filed claim)
3. M37 Guarantee Report
4. Appraisal of property with current regulations in place and without current regulations in place

It is my understanding that you will process this said Amendment which amends certain portions of the previously filed claim, and then process the claim after it is amended. It is my further understanding that the claim is now complete and that you do not need any further information associated with the matter. Please advise immediately if such is not the case.

Letter to Mr. Hopkins
April 11, 2006
Page 2

Lastly, based upon my last E-mail to you yesterday, the applicant/owner has extended the 180 day deadline to May 17, 2006 which is the next available hearing date with allowance of sufficient time for you to receive these materials by April 14, 2006. Please confirm immediately that the hearing will be on May 17 and also notify me as to the time of the hearing. Also, please provide me a draft copy of your staff report associated with the matter.

Yours very truly,



Michael G. Gunn
gunn@gunn-cain.com

MGG:kmm

Enc:

Cc: Marty Peets (with enc), Mr. and Ms. Robert Suess (with enc)

AMENDMENT TO LANE COUNTY M37 CLAIM ##M37PA 05-5880

My client: The Piculell Group Inc.

Tax Account #00300, Assessor's Map #18 05 01 00, approximately 126 acres

The following sections of the previously filed M37 Claim #M37 PA 05-5880, Tax Account 00300, Assessor's Map #18 05 01 00, are amended and replaced in their entirety with the following:

1. Paragraph #4. **Identification of Land Use Regulation**

A. The present zoning of the said property is EF-40. The property cannot be divided into one (1) acre parcels with residences constructed on each of these parcels pursuant to the current zoning. See attachment for complete list of land use regulations, ordinances, etc. that have been enacted which reduces the fair market value of the subject property. All the said land use regulations have been enacted subsequent to the present owners, Suess, acquiring an ownership interest in the said property.

The following is a response to all the criteria of LCO 2.740 (1)

a. The County has either adopted or enforced a land use regulation that restricts the use of private real property or any interest thereon.

See attached list of ordinances, etc. which restrict use of property. These said land use regulations restrict the usage of the said property in that the owners cannot divide the property into one (1) acre parcels and construct individual residences on each parcel.

b. The restriction on use has the effect of reducing the fair market value of the property or any interest therein, upon which the restriction is imposed.

See attached appraisal which shows a reduction in value of \$1,424,000 based on enactment of land use regulations.

c. The challenged land use regulation was adopted, ... after the present owner of the property became the owner.

The present owner of the property acquired ownership interest in 1964. All the land use regulations set forth on the attached list were adopted subsequent to 1964.

d. The challenged regulation is not an exempt regulation as defined in LCO 2.710.

None of the regulations set forth on the attached list fall within an exempt regulation as set forth in LCO 2.710

2. Paragraph #6. Appraisal/Regulatory Effect

A. Enclosed herein is an original appraisal prepared by Charles Thompson & Assoc. Inc. that shows as reduction in value of \$1,424,000 based on enactment of the land use regulations subsequent to the present owner acquiring an ownership interest in the said property (FMV without the regulations is \$2,178,000 minus FMV with the regulations of \$754,000 = reduction in value of \$1,424,000). Note, this appraisal only assumes 60 parcels being created and residences created on those 60 parcels. The owner and applicant desire to create 125 one (1) acre parcels and create residences on each of those parcels. Therefore, the actual amount of reduction in value based on the enactment of the said land use regulations is actually **much greater** than the \$1,424,000 set forth on the appraisal, since the appraisal only assumes 60 parcels.

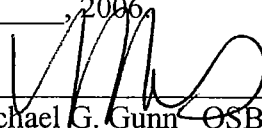
3. Paragraph #7. Leases, etc.

A. See attached M37 Document Guarantee report for copies of all encumbrances associated with said property.

4. Paragraph #8. Identification of Relief Sought.

A. Claimant/owner does not desire compensation as relief. Claimant/owner desires waiver of land use regulations set forth on attachment to enable claimant/owner to divide property into one (1) acre parcels (approximately 125 parcels) and to construct individual residences on each of the parcels. Current regulations set forth on attached list of land use regulations make it impossible to divide the property into one (1) acre parcels and construct residences on each parcel.

Dated this 11 day of April, 2006



Michael G. Gunn OSB 82154
Attorney for The Piculell Group Inc.
Filed with signed authorization from
C. Robert Suess and Helen Suess
Property Owners

**COMPLETE APPRAISAL -
SUMMARY REPORT**

of

**REAL PROPERTY ADDRESSED
28123 Benson Road
Eugene, Oregon**

**LOCATED AT
THE NORTHWEST TERMINUS OF
CROW ROAD AND BENSON ROAD
IN LANE COUNTY, OREGON**

**Date of Report: February 28, 2006 Submitted to: Martin C. Peets
The Piculell Group, Inc.
4820 S.W. Scholls Ferry Road
Portland, OR 97225**

**Date of Value: February 28, 2006 Submitted by: Charles P. Thompson, MAI, SRA
Charles P. Thompson & Assoc., Inc.
1234 High Street, Suite A
Eugene, OR 97401**



Charles P. Thompson & Assoc., Inc.

Real Estate Appraisers & Counselors

P.O. Box 10233
Eugene, OR 97440
541-543-8995
FAX 541-543-5120



February 28, 2006

Martin C. Peets
The Piculell Group, Inc.
4820 S.W. Scholls Ferry Road
Portland, OR 97225

RE: Complete Appraisal - Summary Report of real property addressed as 28123 Benson Road, Eugene, Oregon located at the northwest terminus of Crow Road and Benson Road, Lane County, Oregon. Lane County Assessor's Map 18-05-01 Tax Lot No. 300. The structural improvements and timber are not included in this appraisal.

Dear Mr. Peets:

Pursuant to your request, I have personally inspected the above-referenced property for the purpose of estimating the current market value as zoned (E-40), and also under the *hypothetical condition* and *extraordinary assumption* that the property was either unzoned on January 2, 2006, and as such could be subdivided into 60 or more, one to two-acre lots.

It is my understanding that the appraisal will be utilized in filing a claim under Measure 37. The two value estimates are set forth as follows:

Estimated Value of Subject Property under the <i>Hypothetical condition</i> and <i>extraordinary assumption</i> that it is currently unzoned and could be subdivided into 60 or more, one to two-acre lots, effective February 28, 2006:	\$2,178,000
Estimated Value of Subject Property as zoned (E-40), effective February 28, 2006:	<u>\$754,000</u>
Potential Measure 37 Claim:	<u>\$1,424,000</u>

The contributory values of the two existing residences and the value of timber, if any, are not included in the above value estimates.

The interests valued in this case are the fee simple interests.

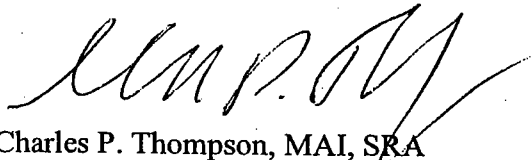
This Complete Appraisal - Summary Report has been completed in conformity with the Code of Ethics and Standards of Professional Practice of the Appraisal Institute, and is in accordance with the 2005 edition of the Uniform Standards of Professional Appraisal Practice (USPAP), adopted by the Appraisal Foundation.

This summary appraisal report is respectfully submitted and your attention drawn to the "Assumptions and Limiting Conditions" as set forth beginning on page 31.

If you have any questions or need additional information, please contact me at your convenience.

Very truly yours,

CHARLES P. THOMPSON & ASSOC., INC.

A handwritten signature in black ink, appearing to read 'C.P. Thompson', written in a cursive style.

Charles P. Thompson, MAI, SRA
Oregon State Certified General Appraiser #C000007



MEASURE 37 LOT BOOK SERVICE

MIKE GUNN, ATTORNEY
P.O. BOX 1046
NEWBERG, OR 97132

March 31, 2006
Order No.: CT-0244373

ATTN:
PHONE NO.: (503)538-8318
FAX NO.:
E-MAIL:

Re:

Fee: \$250.00

We have searched our Tract Indices as to the following described property:

The land referred to in this report is described in Exhibit A attached hereto.
and as of MARCH 27, 2006 at 8:00 A.M.

We find that the last deed of record runs to

C. ROBERT SUESS AND HELEN SUESS
as tenants by the entirety

We also find the following apparent encumbrances within ten (10) years prior to the effective date hereof:

1. Any improvement located upon the insured property which is described or defined as a mobile home under the provisions of Chapters 803 and 820, Oregon Revised Statutes and is subject to registration as provided therein.
2. Power line easement to United States of America by condemnation suit, the transcript of which was recorded in Lane County, Oregon on January 4, 1963, Reception No. 94979, Lane County Oregon Deed Records.
3. Rights of the public in and to that portion within the bounds of the County Road along the Southeasterly line.
4. Transmission Line Easement, including the terms and provisions thereof, granted to the United States of America, as disclosed by instrument recorded December 23, 1965, Reception No. 30815, Lane County Official Records.

No liability is assumed hereunder until policy has been issued and full policy premium has been paid.

MAIN OFFICE * 811 WILLAMETTE ST. * EUGENE, OREGON 97401 * PH: (541) 687-2233
FLORENCE * 1901 HWY 101 - S. 2 * FLORENCE, OREGON 97439 * PH: (541) 997-8417
EUGENE FAX: 485-0307 * E-MAIL: info@cascadetitle.com * FLORENCE FAX: 997-8246

- 5. Deed of Trust (Line of Credit), including the terms and provisions thereof, executed by C. Robert Suess and Helen Suess, Grantor, to Steven L. Philpott, Attorney at Law, Trustee, for the benefit of Centennial Bank, Beneficiary, dated June 1, 2000, recorded October 20, 2000, Reception No. 2000-060606, Lane County Official Records, to secure payment of a note in the amount of \$200,000.00.
 - Said Deed of Trust was modified by Agreement dated November 9, 2001, recorded November 21, 2001, Reception No. 2001-078184, Lane County Official Records.
 - Said Deed of Trust was modified by Agreement dated October 22, 2003, recorded October 24, 2003, Reception No. 2003-104657, Lane County Official Records.
 - Said Deed of Trust was modified by Agreement dated November 10, 2004, recorded November 23, 2004, Reception No. 2004-090089, Lane County Official Records.

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We also find the following unpaid taxes and city liens:

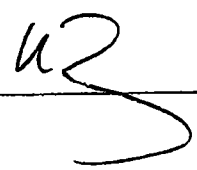
NONE

In our search for recorded deeds to determine the vestee herein we find the following:

<u>Document</u>	<u>Recorded</u>	<u>Fee No.</u>
Warranty Deed (Parcel 1)	November 5, 1964	80841
Warranty Deed (Parcel 2)	August 30, 1961	42536

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listing do to include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Measure 37 Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.

Cascade Title Co.

By:  _____

ar: Title Officer: DOUG PIERCE

cc: ROBERT SUESS
P.O. BOX 15157
SEATTLE, WA 98115

EXHIBIT A
PROPERTY DESCRIPTION

All of the following described property lying Northwesterly of the center line of the County Road: Beginning at the Northeast corner of the H.C. Owen Donation Land Claim No. 40, in Section 1, in Township 18 South, Range 5 West of the Willamette Meridian; running thence South 32.16 chains; West 41.80 chains, North 2.76 chains; East 1.80 chains; North 30 chains and East 40 chains to the point of beginning, in Lane County, Oregon.

EXCEPT that certain tract conveyed to Emil Benson and Hattie Benson, husband and wife, by deed recorded October 9, 1940 in Book 203, Page 377, Lane County Oregon Deed Records, in Lane County, Oregon.

KNOW ALL MEN BY THESE PRESENTS, That PORTER LOGGING COMPANY, INC.

a corporation duly organized and existing under the laws of the State of Oregon Dollars, in consideration of Ten

to it paid by C. ROBERT SUESS and HELEN S. SUESS, husband and wife,

does hereby grant, bargain, sell and convey to said grantees, their

heirs and assigns forever, the following real property, with the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining; and also all its estate, right, title and interest, at law and equity, therein and thereto, situated in the County of Lane, and State of Oregon, bounded and described as follows, to-wit:

That property lying Northwesterly of the centerline of the County Road: Beginning at the Northeast corner of the H. C. Owen Donation Land Claim No. 40, in Section 1, Township 18 South, Range 5 West of the Willamette Meridian, running thence South 32.16 chains, West 41.80 chains, North 2.76 chains, East 1.80 chains, North 30 chains, and East 40 chains to the point of beginning, all in Lane County, Oregon, EXCEPT that certain tract conveyed to Emil Benson and Hattie Benson, husband and wife, by deed recorded October 9, 1940, in Book 203, Page 377, Lane County Oregon Deed Records, in Lane County, Oregon,



TO HAVE AND TO HOLD the same to the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantor

does covenant with the said Grantees and their legal representatives forever, that it is lawfully seized in fee simple of the above described and granted premises, and has a valid right to convey same; that the said real property is free from all encumbrances, except rights of the public in and to any part or parts thereof within the bounds of roads or roadways and power line easement to the United States of America as shown by condemnation suit, the transcript of which was recorded in Lane County, Oregon, on January 4, 1963, Clerk's File No. 94979, Lane County, Oregon Deed Records,

and that it will, and its successors shall WARRANT AND DEFEND the same to the said grantee, their heirs and assigns forever, against the lawful claims and demands of all persons whomsoever.



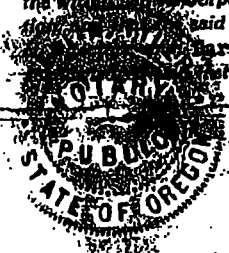
HEREOF, PORTER LOGGING COMPANY, INC. pursuant to a resolution of its Board of Directors, duly and legally adopted, has caused these presents to be signed by its President and Secretary and its corporate seal to be affixed this 30th day of January, 1963.

PORTER LOGGING COMPANY, INC. By Darrell Porter President By Iowa M. Porter Secretary

80841

STATE OF OREGON,

County of Lane } ss. On this 30th day of January, 1963,
before me appeared Darrell Porter and
Iona M. Porter both to me personally known, who being
duly sworn, did say that he, the said Darrell Porter
is the President, and she, the said Iona M. Porter
is the Secretary of PORTER LOGGING COMPANY, INC.
the incorporated Corporation, and that the seal affixed to said instrument is the corporate seal of said Corpora-
tion, and that said instrument was signed and sealed in behalf of said Corporation by authority of its Board
of Directors, the said Darrell Porter and Iona M. Porter
to be the free act and deed of said Corporation.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed
my official seal the day and year last above written.

Steve G. Jones
Notary Public for Oregon.

My Commission expires October 4, 1965.

80841

Corporation
WARRANTY DEED
(FORM No. 21)

4 4900-Porter Log Co

TO
4 5829-Lucas

State of Oregon,
County of Lane—es.

I, Ina Randolph, Director of the
Department of Records and Elections,
in and for the said County, do hereby
certify that the within instrument was
received for record at

NOV 5 PM 4 13 A

Reph

254 D

Lane County OFFICIAL Records.

INA RANDOLPH, Director of the
Department of Records & Elections.

By Maey Plumbert Deputy

C2 9-083-05

STRENGTH LAW PUB. CO., PORTLAND

C. Robert Swess

1515 Polk Street #3

Engers, Oregon

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